

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**FRANCISCO JR GOMEZ,**

**Defendant.**

**CASE NO. 8:06CR190**

## TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing No. 27). The government has adopted the PSR. (Filing No. 25.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the prior convictions described in ¶¶ 26, 39 and 41. As there is no addendum to the PSR, it appears that these objections were not presented to the probation officer as required by ¶ 4 of the Order on Sentencing Schedule. Defense counsel is advised to contact the probation officer for copies of records supporting the information in the relevant paragraphs and attempt to resolve these matters prior to sentencing. If that is not possible, however, the objection will be heard at sentencing. The burden would lie with the government by a preponderance of the evidence. If the parties would require more than 30 minutes for sentencing, they should immediately contact Edward Champion and orally request a continuance.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing No. 27) will be heard at sentencing if they remain unresolved;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 3<sup>rd</sup> day of January, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge